

Message Text

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43

ACTION EUR-12

INFO OCT-01 ISO-00 IO-10 CIAE-00 PM-04 H-02 INR-07 L-03

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FM AMEMBASSY ANKARA

TO SECSTATE WASHDC 568

INFO USCINCEUR

CINCUSAFE

AMEMBASSY ATHENS

AMEMBASSY LONDON

AMEMBASSY NICOSIA

USMISSION NATO

USUN NEW YORK 2126

USNMR SHAPE

AMCONSUL ADANA

AMCONSUL ISTANBUL

AMCONSUL IZMIR

SECDEF WASHDC

DIRNSA WASHDC

USDOCOSOUTH NAPLES

CINCUSNAVEUR LONDON

USDOCOLANDSOUTHEAST IZMIR

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E.O. 11652: N/A

TAGS: MARR, MOPS, PFOR, TU

SUBJ: TEXT OF MFA NOTE

REF: ANKARA 6735

FOLLOWING IS TEXT OF NOTE REFERRED TO IN REFTEL

BEGIN TEXT: THE MINISTRY OF FOREIGN AFFAIRS PRESENTS ITS

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COMPLIMENTS TO THE EMBASSY OF THE UNITED STATES OF AMERICA

AND REFERRING TO ITS PREVIOUS NOTES OF FEBRUARY 10, 1975, NO. 508; JUNE 17, 1975, NO. 2813, JULY 17, 1975, NO. 3271 AND JULY 25, 1975, NO. 3541 AND IN REPLY TO THE EMBASSY'S NOTE OF JULY 27, 1975, NO. 405, HAS THE HONOUR TO BRING THE POINTS OUTLINED IN THE FOLLOWING PARAGRAPHS TO THE ATTENTION OF THE EMBASSY.

2. ONE OF THE BASIC PRINCIPLES OF THE INTERNATIONAL LAW "PACTA SUNT SERVANDA" REQUIRES THAT AGREEMENTS HAVE A BINDING EFFECT UPON THE PARTIES AND ENGAGES THEM TO IMPLEMENT IN GOOD FAITH THE AGREEMENTS IN FORCE. ANOTHER RULE WHICH IS IMPLICIT IN THE PRINCIPLE "PACTA SUNT SERVANDA" IS THAT A PARTY MUST ABSTAIN FROM ACTS CALCULATED TO FRUSTRATE THE OBJECT AND PURPOSE OF THE AGREEMENT.

3. THE DEFENCE COOPERATION AGREEMENT OF JULY 3, 1969, HAS BEEN CONCLUDED BETWEEN TURKEY AND THE UNITED STATES ON THE BASIS OF THEIR RESPONSIBILITIES UNDER ARTICLE III OF THE NORTH ATLANTIC TREATY. THIS ARTICLE UPON WHICH THE BILATERAL DEFENCE COOPERATION BETWEEN THE TWO COUNTRIES IS BASED, STIPULATES THAT THE PARTIES "....BY MEANS OF CONTINUOUS AND EFFECTIVE SELF-HELP AND MUTUAL AID, WILL MAINTAIN AND DEVELOP THEIR INDIVIDUAL AND COLLECTIVE CAPACITY TO RESIST ARMED ATTACK."

4. AS A RESULT OF THE EMBARGO DECISION WHICH HAS NOW ACQUIRED AN ENDURING CHARACTER, THE GOVERNMENT OF THE UNITED STATES HAS FAILED TO CARRY ON THE OBJECT AND THE PURPOSE OF THE DEFENCE COOPERATION AGREEMENT. THIS DECISION NOT ONLY MAKES IMPOSSIBLE THE IMPLEMENTATION OF THE PRINCIPLE OF "CONTINUOUS AND EFFECTIVE MUTUAL AID" BUT ALSO PUTS DELIBERATE OBSTACLES TO TURKEY'S EFFORTS TO MAINTAIN AND DEVELOP ITS CAPACITY TO RESIST ARMED ATTACK BY MEANS OF "SELF-HELP". IN OTHER WORDS, ONE OF THE PARTIES TO THIS AGREEMENT, WHILE FAILING TO FULFIL ITS BASIC COMMITMENTS ALSO PREVENTS THE OTHER PARTY TO FULFIL ITS OWN.

5. FURTHERMORE, THE UNITED STATES GOVERNMENT COMMITTED ITSELF, THROUGH ARTICLE XXI OF THE ABOVE REFERRED AGREEMENT, TO PROVIDE SUPPORT TO THE TURKISH DEFENCE EFFORT. AS A RESULT OF THE EMBARGO DECISION THE GOVERNMENT OF THE UNITED LIMITED OFFICIAL USE

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STATES HAS ALSO FAILED TO FULFIL THIS COMMITMENT.

6. FOR WHATEVER REASON IT MAY BE, THE UNITED STATES GOVERNMENT, BY NOT ABSTAINING FROM ACT CALCULATED TO FRUSTRATE THE OBJECT AND PURPOSE OF THE DEFENCE COOPERATION AGREEMENT OF 1969 AND OF RELATED AGREEMENTS AS A RESULT OF EMBARGO APPLIED ON TURKEY SINCE FEBRUARY 5TH, 1975, HAS NOT OBSERVED THE PRINCIPLE OF "PACTA SUNT SERVANDA". SUCH AN ATTITUDE HAS

FORCED TURKEY AGAINST ITS WISH, NOT TO FULFIL ITS OWN OBLIGATIONS UNDER THESE AGREEMENTS, IN OTHER WORDS TO CONCLUDE THAT IT CANNOT ANYMORE CONSIDER ITSELF BOUND BY THEIR PROVISIONS.

7.THE EMBARGO IMPOSED BY THE UNITED STATES ON TURKEY CONSTITUTES A MATERIAL BREACH OF THE PROVISIONS REGARDING THE OBJECT AND THE PURPOSE OF DEFENCE COOPERATION AGREEMENT OF 1969 AND OF RELATED AGREEMENTS. IT IS A PRINCIPLE OF INTERNATIONAL LAW CONFIRMED BY THE PROVISIONS OF THE LAW OF TREATIES THAT A MATERIAL BREACH OF AN AGREEMENT BY ONE OF THE PARTIES CREATES FOR THE OTHER PARTY THE RIGHT TO TERMINATE THE AGREEMENT BY INVOKING SUCH BREACH AS A GROUND.

8. THE TURKISH GOVERNMENT ON THE BASIS OF THE PRINCIPLES OF INTERNATIONAL LAW AND IN VIEW OF THE MATERIAL BREACH BY THE UNITED STATES GOVERNMENT OF THE BASIC PROVISIONS OF THE AGREEMENTS CONCLUDED BETWEEN THE TWO PARTIES AS ENUMERATED IN ITS NOTE OF JUNE 17, 1975, NO. 2813 AND OF THE CONSEQUENT FAILURE OF THE LATTER GOVERNMENT TO CARRY ON THE OBJECT AND THE PURPOSE OF THE SAID AGREEMENTS, HAS BEEN COMPELLED TO CONCLUDE THAT THE TURKISH GOVERNMENT ALSO IS ENTITLED TO BE RELIEVED OF ITS OWN CONTRACTUAL COMMITMENTS UNDER THESE AGREEMENTS AND TO STATE THAT THEY WILL HAVE NO LEGAL BINDING EFFECT ON TURKEY EFFECTIVE FROM JULY 26, 1975.

9. IN VIEW OF THE ABOVE, THE GOVERNMENT OF TURKEY WISHES TO STATE THAT IT CANNOT ACCEPT THE UNITED STATES GOVERNMENT'S VIEW THAT THE AGREEMENTS IN QUESTION REMAIN BINDING.

THE MINISTRY OF FOREIGN AFFAIRS AVAILS ITSELF OF THIS OPPORTUNITY TO RENEW TO THE EMBASSY OF THE UNITED STATES OF AMERICA THE ASSURANCES OF ITS HIGHEST CONSIDERATION. END TEXT.

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